

Notice of Allowability

Application No.

10/672,613

Applicant(s)

DANNHARDT ET AL.

Examiner

Janet L. Coppins

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' After Final of July 7, 2006.
2. ☒ The allowed claim(s) is/are 1-3,5-7,12-15,22,24-30,32 and 34.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Claims 1-3, 5-7, 12-15, 22, 24-30, 32, and 34 are pending in the instant application.

Response to Amendment

1. Receipt is acknowledged of Applicants' Amendment After Final, filed July 7, 2006, which has been reviewed by the Examiner.
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Accordingly, the Amendment has been entered in the file, and claims 21, 33, 31, and 33 have been cancelled.

Claim Rejections - 35 USC § 112

3. Claims 21, 23, 31, and 33 previously rejected under 35 U.S.C. 112, first paragraph, as not being enabled. In view of Applicants' cancellations, the rejections have been withdrawn.

REASONS FOR ALLOWANCE

4. In view of Applicant's amendatory changes and cancellations, claims 1-3, 5-7, 12-15, 22, 24-30, 32, and 34 are allowable over the prior art, as newly renumbered claims 1-20. The following is an examiner's statement of reasons for allowance:

The following is an examiner's statement of reasons for allowance: This invention relates to novel 2-mercapto-4,5-diaryl-imidazole derivatives, their pharmaceutical compositions, and their methods of use. The allowable compounds are limited to compounds according to formula I of claim 1. Certain diaryl-imidazole compounds are known in the art as having the ability to inhibit the activity of cyclooxygenase, however the aspect of preparing the instant claimed 2-mercapto-4,5-diaryl-imidazole derivatives, with COX-1 and COX-2 inhibitory activity, is novel and unobvious. The instant compounds were tested for selective inhibition of

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COX-1 (please refer to inhibitory results, IC_{50} values, etc. found in Tables 1-17 of the specification), which makes them useful as anti-inflammatory and immunomodulatory agents. After a thorough search, the closest of prior art, U.S. Pat. No. 4,355,039 to Niedballa, et al. was found to teach similar diaryl-imidazole derivatives as anti-inflammatories. However the '039 patent fails to teach or render obvious the instant claimed compounds according to formula (I), and does not fairly suggest methods of using the instant claimed compounds as COX inhibitors for treating inflammation, etc.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Telephone Inquiry

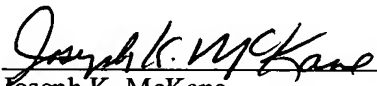
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L. Coppins whose telephone number is 571.272.0680. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Joseph McKane can be reached on 571.272.0699. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Janet L. Coppins
October 1, 2006



Joseph K. McKane
SPE, Art Unit 1626